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Amendment

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SB0035706204HDO

Offered by:

REP. MUSHINSKY, 85th Dist.

REP. WILLIS, 64th Dist.

REP. O'ROURKE, 32nd Dist.

REP. MEGNA, 97th Dist.

To: Subst. Senate Bill No. 357

File No. 441

Cal. No. 499

**"AN ACT CONCERNING THE EXPANSION OF THE BEVERAGE
CONTAINER REDEMPTION PROVISIONS TO INCLUDE
NONCARBONATED BEVERAGES."**

1 After the last section, add the following and renumber sections and
2 internal references accordingly:

3 "Sec. 501. Section 22a-243 of the general statutes is repealed and the
4 following is substituted in lieu thereof (*Effective October 1, 2008*):

5 For purposes of sections 22a-243 to 22a-245, inclusive, as amended
6 by this act, unless the context clearly indicates otherwise:

7 (1) ["Beverage"] "Carbonated beverage" means beer or other malt
8 beverages, [and mineral waters,] soda water and similar carbonated
9 soft drinks in liquid form and intended for human consumption;

10 (2) "Noncarbonated beverage" means water, including mineral

11 water, flavored water, nutritionally enhanced water and any beverage
12 that is identified through the use of letters, words or symbols on such
13 beverage's product label as a type of water, but excluding juice;

14 [(2)] (3) "Beverage container" means the individual, separate, sealed
15 glass, metal or plastic bottle, can, jar or carton (A) two liters or less in
16 size if containing a carbonated beverage, and (B) one and one-half
17 liters or less in size if containing a noncarbonated beverage;

18 [(3)] (4) "Consumer" means every person who purchases a beverage
19 in a beverage container for use or consumption;

20 [(4)] (5) "Dealer" means every person who engages in the sale of
21 beverages in beverage containers to a consumer;

22 [(5)] (6) "Distributor" means every person who engages in the sale of
23 beverages in beverage containers to a dealer in this state including any
24 manufacturer who engages in such sale and includes a dealer who
25 engages in the sale of beverages in beverage containers on which no
26 deposit has been collected prior to retail sale or where the deposit has
27 not been initiated by the manufacturer;

28 [(6)] (7) "Manufacturer" means every person bottling, canning or
29 otherwise filling beverage containers for sale to distributors or dealers
30 or, in the case of private label brands, the owner of the private label
31 trademark, except that "manufacturer" does not include any person
32 who bottles and sells two hundred fifty thousand or fewer beverage
33 containers of noncarbonated beverage each calendar year where such
34 containers are one liter or less in size;

35 [(7)] (8) "Place of business of a dealer" means the fixed location at
36 which a dealer sells or offers for sale beverages in beverage containers
37 to consumers;

38 [(8)] (9) "Redemption center" means any facility established to
39 redeem empty beverage containers from consumers or to collect and
40 sort empty beverage containers from dealers and to prepare such

41 containers for redemption by the appropriate distributors;

42 (10) "Restaurant" means a business that has the sole purpose of
43 preparing and selling food and beverages intended for individual
44 portion service and includes the site at which individual portions are
45 sold, regardless of whether the consumption of food or beverage
46 occurs on or off of such site;

47 ~~[(9)]~~ (11) "Use or consumption" includes the exercise of any right or
48 power over a beverage incident to the ownership thereof, other than
49 the sale or the keeping or retention of a beverage for the purposes of
50 sale;

51 ~~[(10)]~~ (12) "Nonrefillable beverage container" means a beverage
52 container which is not designed to be refilled and reused in its original
53 shape;

54 (13) "Reverse vending machine" means an automated device that
55 accepts beverage containers from redeemers and issues scrip for any
56 beverage container refund value by using a laser scanner,
57 microprocessor or other technology to recognize the Universal Product
58 Code (UPC) or other accepted industry barcode on beverage
59 containers to determine whether the container is redeemable, and that
60 accumulates information regarding containers redeemed; and

61 (14) "Off-site redemption center" means a redemption center that is
62 located within a one-mile radius of a dealer, and that accepts beverage
63 containers of the kind, size and brand sold by such dealer at the
64 dealer's place of business.

65 Sec. 502. Section 22a-245 of the general statutes is repealed and the
66 following is substituted in lieu thereof (*Effective October 1, 2008*):

67 (a) No person shall establish a redemption center without
68 registering with the commissioner on a form provided by the
69 commissioner with such information as the commissioner deems
70 necessary including (1) the name of the business principals of the

71 redemption center and the address of the business; (2) the name and
72 address of the sponsors and dealers to be served by the redemption
73 center; (3) the types of beverage containers to be accepted; (4) the hours
74 of operation; and (5) whether beverage containers will be accepted
75 from consumers. The operator of the redemption center shall report
76 any change in procedure to the commissioner within forty-eight hours
77 of such change. Any person establishing a redemption center shall
78 have the right to determine what kind, size and brand of beverage
79 container shall be accepted. Any redemption center may be established
80 to serve all persons or to serve certain specified dealers.

81 (b) A dealer shall not refuse to accept at such dealer's place of
82 business, from any person any empty beverage containers of the kind,
83 size and brand sold by the dealer, or refuse to pay to such person the
84 refund value of a beverage container as established by subsection (a) of
85 section 22a-244 unless (1) such container contains materials which are
86 foreign to the normal contents of the container; [or unless] (2) such
87 container is not labeled in accordance with subsection (b) of section
88 22a-244; [or unless] (3) such dealer sponsors, solely or with others, a
89 redemption center which is located within a one-mile radius of such
90 place of business and which accepts beverage containers of the kind,
91 size and brand sold by such dealer at such place of business; or
92 [unless] (4) there is established by others, a redemption center which is
93 located within a one-mile radius of such place of business and which
94 accepts beverage containers of the kind, size and brand sold by such
95 dealer at such place of business. A dealer that is a restaurant shall not
96 be required to redeem any beverage container, the contents of which
97 were not consumed on the premises of such restaurant. A dealer who
98 sponsors an off-site redemption center shall post in a conspicuous
99 location within ten feet of the entrances and exits of such dealer's
100 business a notice stating the name, location, hours of operation and
101 telephone number of the off-site redemption center. A dealer shall
102 redeem an empty container of a kind, size or brand the sale of which
103 has been discontinued by such dealer for not less than sixty days after
104 the last sale by the dealer of such kind, size or brand of beverage

105 container. Sixty days before such date, the dealer shall post, at the
106 point of sale, notice of the last date on which the discontinued kind,
107 size or brand of beverage container shall be redeemed.

108 (c) Any dealer operating a place of business of not less than seventy-
109 five thousand square feet in size shall certify to the Department of
110 Environmental Protection that its beverage container redemption
111 capacity equals or exceeds seventy per cent of its sales capacity of
112 redeemable beverage containers. On or after October 1, 2008, any
113 dealer that establishes or significantly expands its place of business or
114 redemption center, excluding an off-site redemption center, shall locate
115 such redemption center not more than two hundred feet from the
116 business' main entrance. Any dealer with a redemption center other
117 than an off-site redemption center established prior to October 1, 2008,
118 where such redemption facility is located more than two hundred feet
119 from the business' main entrance shall post notices stating the location
120 of such redemption center not more than ten feet from the business'
121 entrances and exits.

122 ~~[(c)]~~ (d) A distributor shall not refuse to accept from a dealer or from
123 an operator of a redemption center, located and operated exclusively
124 within the territory of the distributor or whose operator certifies to the
125 distributor that redeemed containers were from a dealer located within
126 such territory, any empty beverage containers of the kind, size and
127 brand sold by the distributor, or refuse to pay to such dealer or
128 redemption center operator the refund value of a beverage container as
129 established by subsection (a) of section 22a-244 unless such container
130 contains materials which are foreign to the normal contents of the
131 container or unless such container is not labeled in accordance with
132 subsection (b) of section 22a-244. A distributor shall remove any empty
133 beverage container from the premises of a dealer serviced by the
134 distributor or from the premises of a redemption center sponsored by
135 dealers serviced by the distributor, provided such premises are located
136 within the territory of the distributor. The distributor shall pay the
137 refund value to dealers in accordance with the schedule for payment
138 by the dealer to the distributor for full beverage containers and shall

139 pay such refund value to operators of redemption centers not more
140 than twenty days after receipt of the empty container. For the purposes
141 of this subsection, a redemption center shall be considered to be
142 sponsored by a dealer if (1) the dealer refuses to redeem beverage
143 containers and refers consumers to the redemption center, or (2) there
144 is an agreement between the dealer and the operator of the redemption
145 center requiring the redemption center to remove empty beverage
146 containers from the premises of the dealer. A distributor shall redeem
147 an empty container of a kind, size or brand of beverage container the
148 sale of which has been discontinued by the distributor for not less than
149 one hundred fifty days after the last delivery of such kind, size or
150 brand of beverage container. Not less than one hundred twenty days
151 before the last date such containers may be redeemed, the distributor
152 shall notify such dealer who bought the discontinued kind, size or
153 brand of beverage container that such distributor shall not redeem an
154 empty beverage container of such kind, size or brand of beverage
155 containers.

156 (e) Each redemption center or a dealer receiving a refund value
157 pursuant to subsection (d) of this section shall provide sufficient
158 information to the distributor to enable the distributor to fulfill the
159 requirements of this section. Such information shall include, but not be
160 limited to, the redemption center or dealer name and address, the
161 number of beverage containers redeemed, the total amount of deposits
162 paid by the dealer, and the amount of the handling fee collected per
163 beverage container. A dealer or redemption center that has multiple
164 locations shall provide such information for each location. Each dealer
165 or redemption center shall grant a distributor reasonable access to such
166 dealers' or redemption centers' business premises to allow inspection
167 of such distributors' beverage containers. A redemption center or
168 dealer that uses reverse vending machines to redeem beverage
169 containers shall use only a reverse vending accounting system that has
170 been reviewed by an independent certified public accountant during
171 the preceding twelve months. Redemption centers shall take
172 reasonable measures to ensure that they redeem only beverage

173 containers that were purchased in Connecticut.

174 (f) Each operator of a redemption center shall conspicuously display
175 a sign in letters that are not less than one inch in height that reads:
176 "WARNING: Persons knowingly tendering beverage containers for
177 redemption that were not originally purchased in a jurisdiction where
178 a deposit was tendered may be subject to a fine of the greater of one
179 dollar per beverage container or ninety dollars."

180 [(d)] (g) In addition to the refund value of a beverage container as
181 provided in subsection (a) of section 22a-244, a distributor shall pay to
182 any dealer or operator of a redemption center a handling fee of at least
183 [one and one-half] three cents for each beverage container of [beer or
184 other malt beverage and two cents for each beverage container of
185 mineral waters, soda water and similar carbonated soft drinks] a
186 noncarbonated or carbonated beverage returned for redemption. A
187 distributor shall not be required to pay to a manufacturer the refund
188 value of a nonrefillable beverage container.

189 [(e)] (h) The Commissioner of Environmental Protection shall adopt
190 regulations, in accordance with the provisions of chapter 54, to
191 implement the provisions of sections 22a-243 to 22a-245, inclusive, as
192 amended by this act. Such regulations shall include, but not be limited
193 to, provisions for the redemption of beverage containers dispensed
194 through automatic vending machines, the use of vending machines
195 which dispense cash to consumers for redemption of beverage
196 containers, scheduling for redemption by dealers and distributors and
197 for exemptions or modifications to the labeling requirement of section
198 22a-244.

199 Sec. 503. (NEW) (*Effective October 1, 2008*) No person shall tender to
200 a dealer, distributor or redemption center more than fifty empty
201 beverage containers for redemption that such person knows or has
202 reason to know were not originally sold in a state that requires the
203 payment of an equivalent or higher deposit. Any person who violates
204 this section may be assessed a civil penalty of the greater of one dollar

205 per beverage container tendered or ninety dollars."